

REMARKS

*Amendments to the Specification*

The specification has been amended to correct typographical errors that have been discovered by Applicants. At page 12, line 26, the reference to FIG. “21A” has been deleted and replaced with the correct reference to FIG. 21. At page 13, line 15, the word “later” has been deleted and replaced with the word “layer”. No new matter has been added by these amendments to the specification.

*Claim Rejections - 35 USC §103*

**Claims 1-2, 5-10, 13-18, 21-25 and 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chantre (US Pat. 6,384,469, hereafter “Chantre”) in view of Menut et al. (US Pub. 2003/0082882, hereafter “Menut”).**

The independent claims 1, 9, 17, and 25 have been clarified to amend the previously claimed combination, as exemplified in claim 1, to now include the limitation of:

“forming a recess under the extrinsic base stack adjacent one side of the intrinsic collector structure.”

The support for the above amendment is on page 7, line 19-24, page 10, line 31-33, and page 14, line 30 through page 15, line 10, and the drawing figures referenced therein.

Dependent claims 2, 7, 10, 11, 23, 29, and 30 have been amended to conform to the respective independent claims from which they depend. Claim 32 has been amended to correct a typographical error of “A” to “The”.

With regard to claims 1, 9, 17, and 25, Applicants respectfully traverse the rejections since the Applicants’ claimed combination, as exemplified in claim 1, includes the limitation not disclosed in Chantre or Menut of:

“forming a recess under the extrinsic base stack adjacent one side of the intrinsic collector structure.”

Each of Chantre and Menut is silent with respect to forming a recess under the extrinsic base stack as currently claimed by Applicants. Therefore, it is respectfully

submitted that there is no teaching or suggestion to combine the references to arrive at Applicants' invention as required by 35 USC §103 because:

“[T]he prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.” *In re Vaeck*, 947 F2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) [underlining for clarity]

With regard to dependent claims 2, 5-8, 10, 13-16, 18, 21-24, and 28-32, these dependent claims respectively depend from independent claims 1, 9, 17, and 25, and are believed to be allowable since they contain all the limitations set forth in the independent claim from which they depend and claim additional unobvious combinations thereof.

Based on all of the above, it is respectfully submitted that claims 1-2, 5-10, 13-18, 21-25 and 28-32 allowable under 35 U.S.C. 103(a) as being patentable over Chantre in view of Menut.

**Claims 3-4, 11-12, 19-20 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chantre in view of Menut in further view of Babcock et al (US Pub. 2003/0025125, hereafter “Babcock”).**

The independent claims 1, 9, 17, and 25 have been clarified to amend the previously claimed combination, as exemplified in claim 1, to now include the limitation of:

“forming a recess under the extrinsic base stack adjacent one side of the intrinsic collector structure.”

Each of Chantre, Menut, and Babcock is silent with respect to forming the claimed recess. Therefore, it is respectfully submitted that there is no teaching or suggestion to combine the references to arrive at Applicants' invention as required by 35 USC §103 because of *In re Vaeck, supra*.

With regard to dependent claims 3-4, 19-20, and 26-32, since they respectively depend from independent claims 1, 9, 17, and 25 and they are believed to be allowable since they contain all the limitations set forth in the independent claims from which they depend and claim non-obvious combinations thereof.

Based on all of the above, it is respectfully submitted that claims 3-4, 11-12, 19-20, and 26-27 allowable under 35 U.S.C. 103(a) as being patentable over Chantre in view of Menut in further view of Babcock.

The other references cited by the Examiner showing the prior art have been considered and are not believed to disclose, teach, or suggest, either singularly or in combination, Applicants' invention as currently claimed.

***Other***

In the Office Action Summary, Priority under 35 U.S.C. §119 section, box 12 is checked to indicate "Acknowledgement is made of a claim for foreign priority under 35 U.S.C. §119(a)-(d) or (f)." and box "c)" below that is checked regarding non-receipt of priority documents. Applicants respectfully state for the record that no claim for foreign priority has ever been made for the present application and, therefore, no priority documents are due.

***Conclusion***

In view of the above, it is submitted that the claims 1-32 are in condition for allowance and reconsideration of the rejections is respectfully requested. Allowance of claims 1- 32 at an early date is solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including any extension of time fees, to Deposit Account No. 50-0374 and please credit any excess fees to such deposit account.

Respectfully submitted,



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